

REMARKS

Amendments

In claim 1, support for the amendment to Het1, which is the Het group appearing in the definition of R¹, can be found, for example, in the original definition of Het, on page 12, lines 11-12, and also within the groups for possible R¹ groups within the definition of X in claim 1, and in original claim 2; support for the amendment to Het2, which is the Het group appearing in the definition of R², can be found, for example, in the original definition of Het, and also within the groups for possible R² groups within the definition of X in claim 1; support for the amendment to Het3, which is the Het group appearing in the definition of R³ and R⁴, can be found, for example, in the original definition of Het, and also within claim 17, and further see page 12, second paragraph.

Information Disclosure Statement

A new IDS is filed herewith citing reference C13 and providing a copy of the full document.

The Rejection Under 35 USC § 112, first paragraph

The only additional comments in addition to the rejection already on the record from a previous Office Action is that the “rejection is maintained because Wood et al. and Crow show that future research in the field of serotonergic modulation.”

However, whether future research is needed in a field is not the standard for measuring whether a claim is enabled. As such, the reason provided is insufficient for maintaining the rejection and the withdrawal thereof in view of the comments already provided, including comments on the teaching of these references, is respectfully and courteously requested.

Moreover, in just about any area of a medical field, further research is just about always needed for the further understanding of a very large number of issues, e.g., mechanisms of action, pharmacokinetics, interactions, etc. The mere hint in a reference that further research is needed in an area of medicine is not evidence of lack of enablement and no case has held that to be the case.

The Rejection Under 35 USC § 112, second paragraph

Applicants respectfully disagree with the allegations regarding the definition of Het.

Nevertheless, the claims have been amended rendering this rejection moot.

The Office Action also rejects the term “neurological disorder” is indefinite because it does not set forth within the claim rejected what specific diseases are included.

One of ordinary skill in the art would clearly understand the term neurological disorder and would be readily able to recite numerous such disorders and would be likewise be able to recite numerous disorders not falling within the scope of this term. “If scope of subject matter embraced by claim is clear, ... then claim does particularly point out and distinctly claim subject matter that applicant regards as his invention ... [thereby] not render[ing] claim imprecise or indefinite or otherwise not in compliance with second paragraph of Section 112.” See *In re Hyatt*, 218 USPQ 195 (CAFC 1983).

The examiner has not articulated any reason why one of ordinary skill in the art would have any difficulty ascertaining the metes and bounds of this claim. See *Ex parte Balzarini*, 21 USPQ2d 1892 (BPAI 1991) (holding that the term “human cells” is broad as observed by the examiner, reading upon human cells found in either an *in vitro* cell culture or in a living body; however, holding that the breadth of this term does not render the claims indefinite because examiner has not articulated any reason why one of ordinary skill in the art would have any difficulty ascertaining the metes and bounds of the claims.) Likewise, the present claim is also not indefinite.

Additionally, applicants point to the specification and also to some dependent claims where numerous exemplary disorders are described along with mechanism of action related to said disorders. “Claim language must be read in light of the specification as it would be interpreted by one of ordinary skill in the art.” See *In re Johnson*, 194 USPQ 187 (CCPA 1977) (Holding the undefined “sigma a5value” definite because those skilled in the art would be able to determine immediately from the specification what level of activation (i.e., sigma a5value) is necessary to practice the invention.) The specification in this case provides clear and detailed guidance to those of ordinary skill in the art to determine the scope of the term “neurological disorder.”

The Office Action appears to rather have an issue with the breadth of this term, rather than with its definiteness. However, even in cases where the breadth of a claim may be undue, which is not the case here, nor is admitted to be, courts have held that “undue breadth of claims is not indefiniteness.” See *In re Borkowski*, 422 F.2d 904, 164 USPQ 642 (CCPA 1970). Merely because a claim describes a general class of diseases that may contain a

number of species, is not a valid reason for rejecting said claim as being indefinite.

Applicants submit that the term is sufficiently definite.

The Rejection Under 35 USC § 103

WO '227 does not render the claimed invention obvious, nor did it render obvious the original claims. The Office Action, for example, missed that the allegedly closest compound of Xiang also differs from the claimed compounds in that at the 5-position, the -O-ethylene-morpholino group, contains an -O- bridging group, for which no corresponding group was, nor is now, present in the claimed compounds. Moreover, even in the broadest disclosure of Xiang, there is always a bridging group X in said position for which no corresponding group was, nor is now, is present in the claimed invention.

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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